

APPEAL NO. 032680  
FILED NOVEMBER 25, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 9, 2003. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of \_\_\_\_\_; that the claimant timely reported her alleged injury to her employer in accordance with Section 409.001; and that the claimant did not have disability because she did not sustain a compensable injury. In her appeal, the claimant essentially argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury with a date of \_\_\_\_\_. The claimant had the burden of proof on that issue. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The injury issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n. v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In this instance, there was conflicting evidence on the issue of the nature and duration of the activities performed by the claimant in her job as an insurance billing assistant with a chiropractic clinic. The hearing officer determined that the evidence did not establish that the claimant sustained a compensable injury. He simply was not persuaded that the claimant sustained her burden of proving that she injured both wrists and hands as a result of performing repetitive, physically traumatic activities at work. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record demonstrates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse the injury determination on appeal. Pool, *supra*; Cain, *supra*.

The existence of a compensable injury is a prerequisite to finding disability. Section 401.011(16). Given our affirmance of the determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that she did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge